



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 6376-00
19 October 2000

MAJ [REDACTED] USMCR
[REDACTED]
[REDACTED]

D [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 19 September 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They further noted that paragraph 5001.2.f of the applicable fitness report directive, Marine Corps Order P1610.7D, stated "Reporting Officials must never damn with faint praise nor hide behind policy definitions to avoid the responsibility and unpleasantness of reporting adversity." They found no violation of this guidance in your case. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6376-00
IN REPLY REFER TO:
1610
MMER/PERB
19 SEP 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] USMCR

Ref: (a) Major [REDACTED]'s DD Form 149 of 20 Jul 00
(b) MCO P1610.7D

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 13 September 2000 to consider Major [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 950620 to 951231 (AR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report was adverse in that it rendered him "non-competitive" for promotion. This being the case, he believes he should have been afforded an opportunity to submit a rebuttal statement.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Despite the petitioner's assertions and arguments, there is absolutely nothing "adverse" within the challenged report. While the petitioner may be correct in his observation that the reporting officials apparently believed his performance was not at the same level as that of his peers, that neither invalidates the observation nor renders it adverse.

b. The petitioner incorrectly implies that at the time the report was written, no forum was available to afford him the opportunity to address his concerns/grievances. Marine Corps Order 1610.11_ (the provisions for challenging a performance appraisal) were available in 1995, just as they are now (and have been since 1982).

c. Lacking anything to the contrary, the challenged report appears to be a valid and objective appraisal of performance during the stated period. In this regard, the Board stresses that to justify the deletion of a fitness report, evidence of

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[REDACTED], [REDACTED] USMCR

probable error or injustice should be submitted. Such is simply not the situation in this case.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Major [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED]
[REDACTED]
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps